

Excerpts from **SMART GROWTH** for **CLEAN WATER**

Helping Communities Address
the Water Quality Impacts of Sprawl



National Association of Local Government Environmental Professionals
Trust for Public Land
ERG

Top 10 Actions for Advancing Smart Growth for Clean Water In Your Community

What actions can local officials take to promote smart growth for clean water in their communities?

1. Connect the Issues of Land and Water

Encourage joint planning, resource allocation, and program implementation of water and wastewater, watershed management, land use planning, and economic development by local government. Establish an inter-office commission to address smart growth for clean water.

2. Establish a Greenprint and a Blueprint for Your Community

Working with citizens and community organizations, establish a long-term vision and plan for those lands that should be protected because of their special natural, scenic, agricultural, historic, or cultural value. Connect this “greenprint” to a “blueprint” of rivers, lakes, and other water bodies and use this plan to prioritize land protection.

3. Think and Act Like a Region

Sprawling growth and water pollution do not respect local boundaries. Solving these problems means that your locality needs to coordinate with neighboring communities in the watershed to establish common goals for directing growth patterns and protecting the quality of local waters. Places to start include metropolitan councils of government and regional planning or economic development councils.

4. Revitalize Brownfields

Cleaning up and redeveloping brownfields will not only reduce toxic runoff from these sites, but also reduce the pressure of sprawling growth on the fringe of your community. Resources are available at the state and federal level to identify, assess, cleanup, and redevelop brownfields.

5. Expand Urban and Community Forestry

Develop local plans for the management of trees in urban areas to maintain a healthy green infrastructure that contributes to storm-water management. Community forest activities, such as engaging residents in tree planting and care, have been proven to reduce water pollution and runoff into rivers, streams, and lakes. Work with your state forester to target forestry resources to waterfront and riverine habitat areas.

6. Provide Incentives to Developers

Local zoning, subdivision, and building codes can include incentives to developers who adopt low impact development and other smart growth approaches in residential and commercial development projects. Localities can encourage approaches such as: the dedication of open space to preservation; cluster/conservation zoning or density bonuses; overlay zones to protect water resources; minimum tree planting requirements; and incentives for the use of rain gardens, rooftop gardens, and other stormwater reduction techniques.

7. Use GIS Technology

GIS mapping offers some of the best tools for integrating water and land use planning. Communities can use GIS to project community build-out patterns and plans, predict the future impacts on water quality from current and proposed growth patterns, and identify water resources that need the most protection.

8. Partner with State Programs

State officials can be partners with local boards on the water pollution and sprawl challenges facing specific regions and communities. States should be encouraged to direct state resources and programs toward the land-water connection.

9. Leverage New Resources

Be creative about using new resources to promote smart growth for clean water, such as Clean Water and Drinking Water State Revolving Funds, Transportation Funds, and other non-traditional sources.

10. Use Watershed Management Approaches to Protect Land and Water Quality

In times of tight budgets, it is critical to make the most of what you have. The watershed management approach is highly efficient since its comprehensive framework allows local governments to simultaneously improve water quality by managing land use. One key to effective watershed management is building strong partnerships with a broad range of people and organizations interested in or responsible for these issues.

Barriers and Solutions to Smart Growth for Clean Water

As states and communities plan and implement their smart growth for clean water programs, many are finding that existing policies, regulations, and organizational structures can be impediments to smart growth and water resource protection. Some of the most common barriers to implementing smart growth for clean water programs are discussed below, along with possible solutions. While these solutions are seldom “quick fixes,” many communities have found that the results are often worth the effort to protect threatened water resources and community quality of life.

Common challenges include:
Coordination Between Land Use Planning and Water Quality Programs
Integration of Water Quality Goals in Local Zoning Ordinances
Connecting Infrastructure Decisions to Land Use Planning
Measuring the Water Quality Results of Smart Growth Approaches
Providing Adequate Resources to Implement Smart Growth for Clean Water Tools
Developing New Technologies and Innovations
Increasing Public Awareness and Support
Providing Flexible Regulatory Requirements

Integration of Water Quality Goals in Local Zoning Ordinances

BARRIER

Local zoning codes often do not adequately account for development impacts on water quality, nor provide incentives for (or even allow) low impact development techniques and other smart growth practices.

SOLUTIONS

- ✓ Revise local ordinances. For example:
 - Allow conservation subdivision zoning or cluster development. Under this approach, a certain percentage of land in a development project remains as open space and natural habitat by clustering development in concentrated areas. Also, consider revised design standards that allow and promote site planning that reduces impervious surface area (for example, narrower streets), stormwater runoff, and pollutant loads.
 - Encourage compact, infill development on brownfields and other locations where development has already taken place. This type of development reduces development on pristine greenfields. Incorporate water quality evaluations and mitigation measures as needed in such projects to ensure water resource protection.
 - Prohibit leapfrog development that disrupts and fragments habitat. Large tracts of continuous development allow the preservation of more natural habitats (U.S. EPA, 2001 (a)).
 - Limit the amount and type of development allowed on prime agricultural land.
 - Establish overlay zoning (*e.g.*, aquifer or stream protection districts) to protect specific water resources.
 - Designate growth areas. For example, restrict certain land uses in areas that could negatively impact water resources, and encourage development in other, less sensitive areas.
- ✓ State/local legislation can be changed to allow more authority and flexibility in zoning, including incentives for smart growth (*e.g.*, tax reductions for low impact development and other best management practices), and disincentives for sprawling growth (*e.g.*, impact fees for development outside designated growth areas). For example, the Town of Skaneateles, New York revised its

zoning laws to incorporate review of building permits, subdivision activities, and other zoning actions by the Syracuse Water Department to help ensure compliance with the Department's Watershed Rules and Regulations. This action was initiated by town residents concerned with maintaining the high water quality of Skaneateles Lake, which is the primary drinking water supply for municipalities in the Syracuse, NY area. (See *New York Lake Watershed District Ordinance, Code of the Town of Skaneateles, Chapter 148, Article V.*)



Connecting Infrastructure Decisions to Land Use Planning

BARRIER

Infrastructure planning and approvals by state and local officials frequently are not connected with the land use planning process, often putting smart growth plans and infrastructure construction in conflict. In addition, state infrastructure officials are unable to direct decisions in a smart growth fashion if localities have not established clear growth plans and preferences. Moreover, local development plans and decisions often are not based on the availability or adequacy of nearby water and sewer infrastructure.

SOLUTIONS

- ✓ Require local comprehensive land use plans that consider the availability of existing and planned infrastructure, as well as the protection of water quality and quantity. Use adequate public facility ordinances to require that infrastructure (as well as other public services) be available or planned prior to development. In some communities, urban service boundaries have been established, beyond which new sewer and water infrastructure are not favored or allowed. Once local growth plans are established, tie state infrastructure funding and decisions to designated growth areas and away from designated open space protection areas. This approach was championed by the State of Maryland, where state infrastructure funding is not available for development that takes place outside of designated growth zones, which are based on locally established development areas and existing infrastructure.
- ✓ Encourage infrastructure funding decisions that are integrated with state and local smart growth initiatives, and adopt funding preferences that favor smart growth strategies that protect water resources. For example, require consideration of the impacts of development as part of state and local environmental and infrastructure review processes; provide “points” for smart growth strategies in deciding which projects to fund; offer financial incentives for projects that address growth impacts; and limit the amount of assistance that goes towards new development versus the maintenance of existing infrastructure. When funding a water collection system project, Massachusetts has chosen to allow 25 percent of the monies to be used for new development; 75 percent must be used for flows that existed as of April 1995.

- ✓ Localities should have the option to use adequate public facilities ordinances and other tools under state and local law to refuse extensions of sewer and water infrastructure to development that is proposed outside of urban growth and service boundaries.

The Drinking Water State Revolving Fund

The Environmental Protection Agency's Interim Final Rule on drinking water state revolving funds (40 CFR Parts 9 and 35) states that projects that serve extensive future population growth are ineligible for assistance from the DWSRF Fund. Projects must be sized only to accommodate a reasonable amount of population growth expected to occur over the useful life of the facility (35.3520(e)(5)).

*For more information, visit
www.epa.gov/safewater/dwsrf/docs/guidetoc.html.*

Providing Adequate Resources to Implement Smart Growth for Clean Water Tools

BARRIER

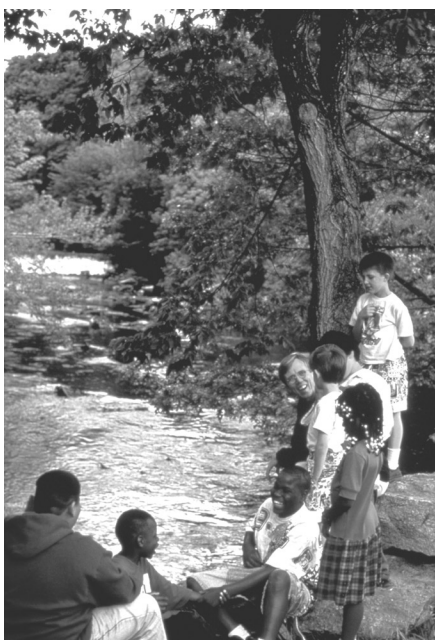
Preserving land, revitalizing brownfields, and pursuing low impact development cost money and often require innovative solutions, but most funding programs and resources are geared toward conventional development and infrastructure practices. Smart growth for clean water tools are efficient and cost effective, as these tools often provide multi-purpose objectives (for example, rain gardens control stormwater and may re-introduce natural habitat). Moreover, smart growth approaches are often less costly than conventional infrastructure and development practices. More resources are needed for these innovative approaches.

SOLUTIONS

- ✓ States and localities should conduct cost of service studies and fiscal impact analyses to determine how growth will affect the fiscal health and viability of the community. Such studies have consistently shown the economic value of conservation, brownfields revitalization, and smart growth approaches.
- ✓ Where sprawling development projects do not cover the costs and impacts associated with this new growth, localities should consider the use of development impact fees to help ensure that new residential growth is responsible for its share of infrastructure and government services.
- ✓ Localities should pursue local initiatives for protection of land and water resources. While raising local taxes or other local revenues may not be the only or best solution, the fact is that residents are often willing to pay for such environmental protection. In 2002, 75 percent (141 of 189) of parks and open space ballot measures passed in communities across America—up from 70 percent in 2001. The 141 successful measures will generate over \$10 billion in 28 states, including an estimated \$5.7 billion specifically for land acquisition, preservation, and protection (Trust for Public Land and Land Trust Alliance, 2003).
- ✓ Local funds almost always attract and leverage state, federal, or private sector funds. Communities should identify and create local programs to leverage available funds/resources

(loans, grants, donations, technical assistance) to attract additional funds from other sources.

- ✓ Many kinds of new, innovative partnerships can help increase resources for combined land and water resource protection. For example, Utah's Salt Lake City Public Utilities partnered with a land trust with specific expertise in real estate negotiations and land acquisition tax issues. This partnership facilitated the utility's purchase of 1,000 acres of watershed land, which it funded through a monthly fee of \$0.25 per water connection, providing \$1,154,000 for the land purchase.
- ✓ Increased funding for federal conservation and revitalization programs can be a major benefit for communities seeking smart growth for clean water solutions, including programs such as the Land and Water Conservation Fund, Army Corps of Engineers water resources funds, the Urban Parks Restoration and Recovery program, the EPA Brownfields grant program, the EPA watershed grant programs, and the NOAA Coastal and Estuarine Land Preservation Program.
- ✓ Clean Water and Drinking Water State Revolving Funds can be used to finance smart growth for clean water projects. States should consider providing "points" for smart growth strategies in SRF "priority ranking systems."
- ✓ Increase federal farm bill funding for land conservation practices which protect water quality, and expand state farmland preservation programs to target watershed protection goals as well.
- ✓ Use transportation funding to install "green infrastructure" such as vegetated buffers and bioswales alongside new and existing roads. For example, the City of Chicago now requires the establishment of green infrastructure, whenever new road projects are built, in order to protect Lake Michigan and other valued water resources.
- ✓ Use non-monetary measures to encourage smart growth, including development incentives such as streamlined permitting, density credits and transfer of development rights, regulatory credits, and watershed trading for smart growth projects.



JAMES F. GESUALDI, AICP
Attorney at Law
58 Wingam Drive
Islip, Long Island, New York 11751-4112
Telephone: (631)224-4801
Facsimile: (631)224-1678
Email: Jfges@aol.com

Incorporating Smart Growth into the Development Process

James F. Gesualdi¹

Although discussion of “Smart Growth” is almost always focused on projects or outcomes, the oft neglected land use development and associated environmental review processes are critical to the viability of Smart Growth initiatives. This fundamental reality is underscored in Suffolk County, Smart Communities through Smart Growth (2000) which notes important objectives of: (1) encouraging consultation between communities (p.8); and (2) making development decisions predictable, fair and cost effective (p.10).

The Suffolk County, Smart Growth Policy Plan for Suffolk County (2000) similarly notes that the process, or planning process as part of the development process should: (1) promote consultation and collaboration among communities (p.7); and (2) encourage permitting processes which are predictable, certain, efficient and final (p.27). Of course, the Plan notes that such a process must include the community, regulators, developers and other interested parties.

In short, it seems that such measures, hereinafter “Smart Process,” can help foster “Smart Growth” in a number of ways:

- 1) Smart Process should save time, money and other resources so as to allow reallocation or reinvestment of same into better projects, more preservation (of the natural and human-made environments), enhanced mitigation, and decreased costs (an important consideration in the affordability of housing within our Long Island community).
- 2) Similarly, such process should avoid or resolve public disputes particularly those that perhaps all too often result in litigation.

There are several ways to foster “Smart Process” in order to encourage Smart Growth including measures relating to: (1) core competencies; (2) consultation, coordination and citizen participation; and (3) consensus building.

¹ James F. Gesualdi, Esq. is a solo practitioner in Islip, Long Island. He has represented numerous land use applicants and community groups and has served as municipal attorney for local government boards. He is a frequent author and lecturer on land use matters. He is also a member of the American Planning Association and the American Institute of Certified Planners. His practice also involves substantial work on federal regulatory matters relating to zoos, aquariums and marine mammal parks. He can be contacted at (631) 224-4801 or by email at Jfges@aol.com.

Core competencies which can be enhanced to facilitate an improved process include the training of municipal board members as recommended in the Smart Growth Policy Plan (which may better equip members for the difficult challenges presented to them, and reduce potential municipal liability); the provision of experts or resources to “ride circuit” within a region in order to enhance local government review capabilities; and public education. Public education is absolutely essential in order to foster adequate public understanding and support for Smart Growth.

Consultation, coordination and citizen participation refer to many ways which the application process itself can be improved. Consultations with applicants, and other stakeholders, prior to the submission of land use applications, and in the preliminary stages of review are likely to alleviate or narrow subsequent conflicts. This is accomplished through conferences, informational hearings, work sessions, and preliminary or conceptual approvals (in advance of the commitment of more substantial resources). Coordination can be improved within and among municipalities or jurisdictions through staff level working relationships, cooperative agreements, proper use of referrals to County planning agencies, and enlightened use of the many salutary features of the State Environmental Quality Review Act, including coordinated review. There are also new models of citizen participation evolving in conjunction with Smart Growth, including some which require initial meetings between the applicant and other stakeholders, public design workshops at the commencement of the application process, and preparation and implementation of formal citizen participation plans.

Consensus building through pro-active constructive engagement holds much promise for Smart Growth. Three models of consensus building warranting further attention are facilitation, visioning and mediation. As Professor John Nolon of the Land Use Law Center at Pace University puts it, facilitation “involves the identification of all the parties who have an important interest in the matter, the convening of these parties, and discussions among them that identify their true interest, leading to decisions that are based upon those interests”. Within the planning profession, facilitation of planning projects is sometimes known as “visioning”. Visioning, like facilitation, is an inclusive process intended to bring together diverse interests in order to build community consensus around a long-term shared view of the future, often through an intense public design “charette”.

By the 1980’s, the emergence of a multiplicity of interests and groups seeking greater roles in land use determinations created situations involving multiparty negotiations concerning specific projects. As noted in a 1989 American Planning Association, Planning Advisory Service Report by William Fulton, Reaching Consensus in Land-Use Negotiations, “[p]ublic permitting processes, and even district-level planning efforts, are not usually well-suited for handling multiparty negotiations.” (*Id.* at 1.) Nevertheless, the use of a neutral knowledgeable in the underlying substantive matter to bring parties or stakeholders to agreement through mediation, is increasing, as the public discussion over its promise and effectiveness continues.

Going forward, there is much that can be done to promote potential development, implementation and refinement of “Smart Process” into the environmental and land use review process here on Long Island. Certainly, at the very least, some of these recommendations warrant further study.

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